



STATE BOARD OF EQUALIZATION  
450 N STREET, SACRAMENTO, CALIFORNIA, 95814  
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Fourth District, Los Angeles

STEVE WESTLY  
State Controller, Sacramento

RAMON J. HIRSIG  
Executive Director

**STATE BOARD OF EQUALIZATION MEETING  
450 N Street, Room 121, Sacramento  
May 25-26, 2004  
NOTICE AND AGENDA**

**Tuesday, May 25, 2004**

Agenda items occur sequentially. When circumstances warrant, the Chairwoman may modify the order of the items on the agenda.

**BOARD COMMITTEE MEETINGS\* (convene at 9:30 a.m.)**

**~~BUSINESS TAXES COMMITTEE~~.....~~Mr. Chiang, Chairman~~**

- ~~1. Should a sales tax permit be issued to Lands' End, an out of state retailer who currently collects and reports use tax, if title to the property passes in state and the retailer's sole activity at its in state location is performing customer credit checks which previously has not been considered sales negotiation? If so, the incidence of tax would shift from consumers to the retailer, and the allocation of the local portion of the tax collected would shift from cities and counties where the buyers reside to the local government where the credit check activity is performed.~~

**~~PROPERTY TAX COMMITTEE~~ ..... ~~Mr. Parrish, Chairman~~**

- ~~1. Proposed Amendments to Property Tax Rule 462.500, Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings~~

**BOARD MEETING\*\* (convenes upon adjournment of the Board Committee Meetings)**

**BOARD PHOTOGRAPH**

**ORAL HEARINGS**

**A. HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE HEARING**

- A1 Deantia Lavender, 239624  
For Claimant: Shelia Newby  
Deantea Lavender, Claimant  
For Franchise Tax Board: Suzanne Small, Tax Counsel

**B. CORPORATE FRANCHISE AND PERSONAL INCOME TAX HEARINGS**

- B1 Albert Buchner, 244294  
For Appellant: Albert Buchner, Taxpayer  
For Franchise Tax Board: Kathleen Cooke, Tax Counsel
- B2 William R. Walsh, 217872  
For Claimant: Alan S. Bernikoff, Accountant  
For Franchise Tax Board: Dennis Haase Tax Counsel
- B3 Wayne A. Cronos, 219478  
For Appellant: Sharon Lapen, Attorney  
Thomas Thornhill, Representative  
Wayne A. Cronos, Taxpayer  
For Franchise Tax Board: Mark McEvilly Tax Counsel

**C. SPECIAL TAXES APPEAL HEARING**

- C1 Raffi Ohanes Sepetjian, 195054  
For Petitioner: Robert Petersen, CPA  
Raffi Sepetjian, Taxpayer  
For Department: Monica Gonzalez Brisbane, Tax Counsel

**D. SALES AND USE TAX APPEALS HEARINGS**

- ~~D1A Warnaco, Inc., 145698~~  
~~D1B Outlet Stores, Inc., 146407~~  
~~For Petitioner: Michael P. Melino, Representative~~  
~~Todd R. Rossini, Representative~~  
~~For Department: Sandy McCaleb, Hearing Representative~~
- ~~D2 Giraux Ltd., 16494~~  
~~For Petitioner: Joseph Vinatieri, Attorney~~  
~~Tamar Kilijian, Taxpayer~~  
~~For Department: Sharon Jarvis, Tax Counsel~~
- D3 Nationwide Sheet Music Service, Inc., 217328  
For Petitioner: Gregory Cheng, Taxpayer  
For Department: Sandy McCaleb, Hearing Representative
- D4 Espresso Roma Corporation, 144382  
For Petitioner: Sandy Boyd, Taxpayer  
Basil J. Boutris, Attorney  
For Department: Sandy McCaleb, Hearing Representative

D5 Jerames Industries, Inc., 112004  
 For Petitioner: Jesse McClellan, Representative  
 For Department: Jeffrey Graybill, Tax Counsel

**E. PROPERTY TAX APPEAL HEARINGS**

THERE ARE NO ITEMS FOR THIS MATTER

**F. PUBLIC HEARINGS**

**F1 Proposed Adoption of Property Tax Rule 136,  
 Limited Liability Companies as Qualifying Organizations  
 for Welfare Exemptions.....Ms. Cazadd**

Proposed Property Tax Rule 136, *Limited Liability Companies as Qualifying Organizations for Welfare Exemptions*, clarifies that organizations eligible for the welfare exemption include limited liability companies wholly owned by qualified organizations.

**F2 Proposed Amendment of Sales and Use Tax Regulation 1584,  
 Membership Fees .....Ms. Thurston**

Regulation 1584, *Membership Fees*, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6012. Amendments are proposed to (1) add new subdivision (a)(2) to explain that when persons other than retailers make sales of memberships and the retailer's sales meet specified criteria, the gross receipts from such membership sales should be included in the taxable measure of the retailer selling tangible personal property to members and not the person selling the membership; (2) renumber former subdivisions (a)(2) and (a)(3) accordingly; and make a minor correction in new subdivision (a)(3).

**F3 Proposed Amendments to the Rules of Practice.....Ms. Ograd**

The Board proposes to amend Title 18, Regulations 5020, 5021, 5022, 5023, 5030, 5070, 5071, 5075, 5075.1, 5076, 5076.1, 5079, 5082.1, 5083, 5090, 5091, and 5093, and repeal Regulation 5087 of the Board's Rules of Practice. The Board's Rules of Practice are the hearing procedures applicable to the various tax and fee programs administered by the Board, including the procedures and standards for the Board's consideration of reimbursement claims under provisions of the Taxpayers' Bill of Rights.

**F4 Timber Harvest Values .....Ms. Stuckey**

On or before June 30, 2004, the Board will estimate the immediate harvest value and adopt schedules for each species or subclassification of timber harvested between July 1 and December 31, 2004 (Revenue and Taxation Code section 38204(a)).

**G. TAX PROGRAM NONAPPEARANCE MATTERS – CONSENT****G1 Legal Appeals Matters .....Mr. Levine**

- Petitions for Rehearing
  1. Tah Lih Investment, Inc., 194099
- Hearing Notice Sent – No Response
  2. Grace Holmes, Inc., 154362
  3. Joe Hood, 196705
  4. George Jeffrey Yurtin, 141355

**G2 Franchise and Income Tax Matters ..... Ms. Stanislaus**

- Decisions
  1. Jane L. Andrews (Deceased), 224316
  2. Ignatius Anyanwu, 213522
  3. Carolyn E. BudranMcDow, 244292
  4. Peter Catherwood and Kathleen Guido, 218627
  5. Yadira Chairez, 241039
  6. Harold L. Davis (Deceased), 218705
  7. Victor DiCosola, 203458
  8. Jacqueline Girard, 202275
  9. Willard and Margaret Hartzler, 220763
  10. Stephen Haussmann, 202272
  11. Kenneth Hawkins, 240640
  12. Health Food Depot, Inc., 215898
  13. Parvin Heshmati, 212735
  14. William Howell, 239923
  15. Anne La Forge, 240907
  16. Audra and Vicky Lyon, 224006
  17. Leonard J. Medeiros, 224042
  18. Raymond Neill, 223840
  19. Michael E. Nestor, 218586
  20. Kimberly E. and Michael S. Parker, 243691
  21. William L. and Barbara B. Porter, 237222
  22. Glenn D. Rice, 221272
  23. Tracy H. and Carol L. Sandberg, 220121
  24. Melvin Ralph Sherman, 221836
  25. Michael A. Silva, 217867
  26. Simas and Bettencourt Farms, Inc., 220099
  27. Marion E. Sims, 237218
  28. Lloyd and Joan Takasugi, 239341
  29. Christie L. Ver Brugge, 234013
  30. Kenneth A. and Lisa Ann Vice, 224403
  31. Gwendolyn and Sam Wade, 237223
  32. Patience Wickliffe, 224431
  33. James A. Wood, 239488
  34. Zatman Marketing, Inc., 219856

- Petitions for Rehearing
- 35. Matthew Joseph Peddecord, 202128
- 36. E. Sylvia Simpson, 206174

**G3 Homeowner and Renter Property Tax Assistance Matters ..... Ms. Stanislaus**

- Decisions
- 1. Joe Alvarez, 241716
- 2. Severino Apsay, 239164
- 3. Alejandra Arenas, 241608
- 4. Geraldine Aucoin, 221863
- 5. Ginesa Basina, 241614
- 6. Fernando Benito, 241616
- 7. R. A. Benson, 239661
- 8. Carolyn A. Caton, 243632
- 9. Cynthia A. Forcier, 221663
- 10. Julia Miller Garrison, 218333
- 11. Kelly M. Hill, II, 219579
- 12. Bob Langley, 244160
- 13. Dolores L. Lawson, 241624
- 14. Lang V. Le, 241627
- 15. Luis A. Mendoza, 240646
- 16. Nina Niles, 241329
- 17. Carmen Z. Ortiz, 244330
- 18. Thong Quang Pham, 240557
- 19. Anita Pike, 239353
- 20. Fernando Robinson, 239376
- 21. Cleveland Thompson, 242254

**G4 Sales and Use Taxes Matters .....Mr. Young**

- Redeterminations
- 1. OPI Products, Inc., 208945
- 2. W. Miller Company, Inc., 102209
- 3. R.F. Mac Donald Company, 236139
- 4. All American Semi-Conductor No. California, Inc., 225008
- 5. Honeywell International, Inc., 236838
- 6. AFA Diversified Corporation, 215651
- 7. Data Technology, Inc., 218841
- 8. John Wiley & Sons, Inc., 240554
- 9. Fleming Companies, Inc., 242263
- 10. California Petroleum Exchange, Inc., 208947
- 11. First Data Merchant Services Corporation, 221739
- Denials of Claims for Refund
- 12. Humboldt Wedag, Inc., 222078
- 13. Motel 6 Operating LP, 236967
- 14. Universal Coml Credit Leasing II, Inc., 134456, 235505
- 15. Universal Coml Credit Leasing III, Inc., 134455, 236968
- 16. Valor Computerized Systems, Inc., 217746
- 17. Huong Thien Nguyen, 215121

**G5 Sales and Use Taxes Matters – Credits, Cancellations and Refunds.....Mr. Young**

- Credits and Cancellations
  1. Loehmann's, Inc, 255796
  2. AFA Diversified Corporation, 259286
  3. Digital Interiors, Inc., 222194
  4. Morgan Marshall Industries, Inc., 258337
- Refunds
  5. Mid Coast Suppliers, 255370
  6. Crossfield Products Corporation, 241100
  7. Harcourt, Inc., 253702
  8. S.G. Herrick Corporation, 255782
  9. Riverside Community Hospital, 257886
  10. Michael E. Pulitzer, 242279
  11. BOS Partners, 215125
  12. HttPrint, Com, Inc., 155660
  13. OMM, Inc., 206421
  14. Airport Group International, Inc., 252414
  15. BP Products North America, Inc., 236972
  16. The Dupuis Group, LLC, 258584
  17. MRT Technology, LLC, 193083

**G6 Special Taxes Matters**

*THERE ARE NO ITEMS FOR THIS MATTER*

**G7 Special Taxes Matters – Credits, Cancellations and Refunds ..... Mr. Gau**

- Credits and Cancellations
  1. Ultramar, Inc., 252984
  2. Tesoro Refining and Marketing Company, 252987
- Refunds
  3. Strategic Energy LLC, 236308

**G8 Property Tax Matters**

*THERE ARE NO ITEMS FOR THIS MATTER*

**H. TAX PROGRAM NONAPPEARANCE MATTERS – ADJUDICATORY****H1 Legal Appeals Matters .....Mr. Levine**

- Matter for Board Consideration
  1. Office Furniture L.A., Inc., 140910

**H2 Franchise and Income Tax Matters ..... Ms. Stanislaus**

- Decisions
  1. Alejandra Araujo, 222707
  2. Michiko Bristle, 224306
  - ~~3. Cheryl L. Johnson, 215645~~
  4. Margaret A. Scott, 216141

- ~~5. Peter and Natasha Skillsky, 193977~~
- 6. Jess A. Sloan, 214766
- 7. Meagan A. Stott, 217212

### **H3 Homeowner and Renter Property Tax Assistance Matters ..... Ms. Stanislaus**

- Decisions
  - 1. Debi Hill, 219526
  - 2. Rahim Keshmiri, 212631

### **H4 Sales and Use Tax Matters ..... Mr. Young**

- Redeterminations
  - ~~1. Nations Healthcare of California, Inc., 155919~~
  - 2. Crescent Healthcare, Inc., 162548
  - 3. Cardenas & Cox, Inc., 143923

### **H5 Sales and Use Tax Matters – Credits, Cancellations and Refunds ... Mr. Young**

- Refunds
  - 1. Ascent Media Group, Inc., 253113
  - 2. Global Crossing Telecom, Inc., 245528
  - 3. Marine World Joint Power Authority, 246270
  - 4. Driscoll Strawberry Assoc., Inc., 145377
  - 5. SBC Advanced Solutions, Inc., 203005
  - 6. David John Gamble, 208012
  - 7. Mission Financial Services Corporation, 218169
  - 8. A-L Financial Corporation, 241651

### **H6 Special Taxes Matters**

*THERE ARE NO ITEMS FOR THIS MATTER*

### **H7 Special Taxes Matters – Credits, Cancellations and Refunds**

*THERE ARE NO ITEMS FOR THIS MATTER*

### **H8 Property Tax Matters**

*THERE ARE NO ITEMS FOR THIS MATTER*

## **I. TAX PROGRAM NONAPPEARANCE MATTERS - NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

### **I1 Property Taxes Matters .....Mr. Gau**

- Unitary Escaped Assessment
  - 1. DSI/Inn-Tel, Inc. (7713) – “CF”
- Audits
  - 2. Evans Telephone Company (229) – “CF”
  - 3. SureWest Telephone (294) – “CF”
  - 4. West Coast P.C.S. (2745) – “CF”
  - 5. New Edge Networks, Inc. (7800) – “CF”
- Private Railroad Car Tax Refunds
  - 6. North Star Steel Company (6196) – “CF”
  - Perdue Transportation, Inc. (6204) – “CF”

**CHIEF COUNSEL MATTERS****J. RULEMAKING***THERE ARE NO ITEMS FOR THIS MATTER***K. BUSINESS TAXES***THERE ARE NO ITEMS FOR THIS MATTER***L. PROPERTY TAX***THERE ARE NO ITEMS FOR THIS MATTER***M. OTHER MATTERS***THERE ARE NO ITEMS FOR THIS MATTER***ADMINISTRATIVE SESSION****N. Consent Agenda ..... Ms. Pellegrini****N1 Approval of Board Employee Retirement Resolutions**

- Max Clark
- Helen Conover
- Nathan Green
- Roy W. McClain
- Gloria Robinson
- Dorren F. Unger
- Michael L. Webber

**N2 Approval of Board Meeting Minutes**

- February 18, 2004
- March 9-10, 2004
- March 23, 2004
- April 13, 2004

**N3 Approval of extensions of time to complete and submit 2004-05 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Mariposa, Mendocino, Placer, San Diego, San Luis Obispo, Tehama and Trinity Counties****N4 Approval of 2004-05 Tobacco Products Tax Rate****N5 Approval of 2003-04 Superior Accomplishment Award Nominees****N6 Adoption of 4-R Act Equalization Ratio for 2004-05****N7 Proposed Revisions to Audit Manual Chapter 8, Bars and Restaurants****N8 Proposed Revisions to Audit Manual Chapter 10, Occasional Sales—Sale of a Business****N9 Proposed Revisions to Audit Manual Chapter 13, Statistical Sampling****N10 Proposed Revision to Compliance Policy and Procedures Manual Chapter 1, General****N11 Proposed Revision to Compliance Policy and Procedures Manual Chapter 2, Registration****N12 Proposed Revisions to Compliance Policy and Procedures Manual Chapter 4, Security**



N13 Proposed Revisions to Compliance Policy and Procedures Manual Chapter 5, Returns

N14 Proposed Revisions to Compliance Policy and Procedures Manual Chapter 7, Collections

**O. Board Committee Reports**

~~O1 Business Taxes Committee~~

O2 Property Tax Committee

**P. Other Matters**

**P1 Approval of Contract Over \$1 Million.....Mr. Hirsig/Mr. Powers**  
Approval of agreement with Department of Toxic Substances Control that expires June 30, 2004 (Routine Renewal)

**P2 Property Tax Matter - "CF" ..... Mr. Siu**  
Board sets unitary values of state-assessed properties annually, on or before May 31. The Board is required to value and assess all of the taxable property within the state that is to be assessed by it pursuant to section 19 of Article XIII of the Constitution and any legislative authorization thereunder.

**ANNOUNCEMENT OF CLOSED SESSION..... Ms. Pellegrini**

**Q. CLOSED SESSION**

- Q1 Discussion and approval of staff recommendations regarding settlement cases (R&T Code § 6901, 7093.5, 30459.1 and 50156.11)
- Q2 Pending litigation: *Warren A. Slocum, Assessor of County of San Mateo, et al. v. State Board of Equalization*, Alameda County Superior Court Case No. 2002-065000 (Govt. Code § 11126(e))
- Q3 Pending litigation: *In re Fleming Companies, Inc., Core-Mark International, Inc., et al.*; Chapter 11 Case No. 03-10945 (MFW) (Govt. Code § 11126(e))
- Q4 Discussion of *Department of Toxic Substances Control v. State Board of Equalization*
- Q5 Discussion and action on personnel matters (Govt. Code § 11126(a))

**OPEN SESSION**

**ADJOURN**

Generally, 35 minutes are allocated for each hearing: 10 minutes for the taxpayer, 10 minutes for the Department, 5 minutes for the taxpayer's rebuttal, and 10 minutes for Members' questions.

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Deborah Pellegrini, Chief  
Board Proceedings Division

- \* Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- \*\* Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.

"CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.

If substantial revisions to the published text of the regulations are approved at the hearing, the regulations will be republished for a new hearing date. If only revisions sufficiently related to the published text of the regulations are approved, a notice containing these revisions will be mailed to those persons who commented orally or in writing or who asked to be informed of such revisions. The notice will be mailed at least 15 days prior to the scheduled Board adoption of the regulations to allow time for additional comments.

Agenda items occur sequentially. When circumstances warrant, the Chairwoman may modify the order of items as they appear on the agenda. The hearing location is accessible to the disabled. If you require special assistance, please contact Gary Evans at (916) 445-4394, or e-mail [Gary.Evans@boe.ca.gov](mailto:Gary.Evans@boe.ca.gov), to make special arrangements.



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**STATE BOARD OF EQUALIZATION MEETING  
450 N Street, Room 121, Sacramento  
May 25-26, 2004  
NOTICE AND AGENDA**

RAMON J. HIRSIG  
Executive Director

**Wednesday, May 26, 2004**

**BOARD MEETING\* (convenes at 9:30 a.m.)**

❖ RESERVED FOR COMPLETION OF ANY UNFINISHED BOARD BUSINESS  
FROM THE MAY 25, 2004 BOARD MEETING

**ADJOURN**

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